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Attorney for Plaintiffs

NT CIRCLE CITY REAL ESTATES, LLC
and NUAN TINIO

Plaintiff,

vs.

MORRIS INVEST, LLC, CLAYTON
MORRIS, BLUE SKY PROPERTY
MANAGEMENT LLC, INDY JAX
PROPERTIES LLC, KAREN SCHNABEL,
OCEANPOINTE INVESTMENTS
LIMITED, OCEANPOINTE PROPERTY
MANAGEMENT LLC, OCEAN POINT
PROPERTY MANAGEMENT LLC, JP
ANDERSON REALTY GROUP D/B/A
OCEANPOINTE PROPERTY
MANAGEMENT, JOHN DOES 1 – 10 and
ABC COMPANIES 1 – 10,

Defendants.

SUPERIOR COURT OF NEW JERSEY
MORRIS COUNTY: LAW DIVISION

DOCKET NO. MRS-L-

CIVIL ACTION

**COMPLAINT, JURY DEMAND AND
DESIGNATION OF TRIAL COUNSEL**

Plaintiffs, NUAN TINIO and NT CIRCLE CITY REAL ESTATES, LLC,
(collectively, “Plaintiffs”), by way of Complaint against Defendants, says as follows:

THE PARTIES

1. Plaintiff Nuan Tinio is an individual with an address located at 28 Heather Drive, Somerset, New Jersey 08873.

2. Plaintiff NT Circle City Real Estates is an Indiana Limited Liability Company with an address located at 28 Heather Drive, Somerset, located in Somerset County, New Jersey.

3. Defendant, Morris Invest, LLC (“Morris Invest”), is a New Jersey Limited Liability Company located at 100 Charles Ewing Boulevard, Suite 160, Ewing, Mercer County, New Jersey 08628.

4. Defendant, Clayton Morris (“Clayton Morris”), is an individual with an address located at located 29 Deerfield Drive, Florham Park, Morris County, New Jersey 08628.

5. Defendant, Blue Sky Property Management, LLC (“Blue Sky”), is an Indiana Limited Liability Company with an address located at 5868 E. 71st Street, Suite E340, Indianapolis, IN 46220 and 1075 Broad Ripple Ave Po Box 261, Indianapolis, IN 46220.

6. Defendant, Indy Jax Properties, LLC (“Indy Jax”), is an Indiana Limited Liability Company with an address located at 11715 Fox Road, Suite 400-107, Indianapolis, IN 46236.

7. Defendant, Karen Schnabel (“Schnabel”), is an individual of the State of Indiana and an authorized agent of Indy Jax.

8. Defendant, Oceanpointe Investments Limited (“Limited”), is an Indiana Limited Liability Company with an address located at 11715 Fox Road, Suite 400-107, Indianapolis, IN 46236.

9. Defendant, Oceanpointe Property Management, LLC (“OPM, LLC”), is an Indiana Limited Liability Company with an address located at 5856 E. 71st Street, Suite E340, Indianapolis, IN 46220.

10. Defendant, Ocean Point Property Management LLC (“Ocean”), is an Indiana Limited Liability Company with an address located at 1775 N. Sherman Drive, Suite A, Indianapolis, IN 46218.

11. Defendant, JP Anderson Realty Group d/b/a Oceanpointe Property Management ("JP Anderson"), is an Indiana Limited Liability Company with an address located at 11715 Fox Road, Suite 400-107, Indianapolis, IN 46236.

FACTUAL BACKGROUND

12. The Property in controversy is located at 2139 Columbia Avenue, Indianapolis, Marion County, Indiana 46202 ("Property").

13. Plaintiff NT Circle City is the owner in fee simple of the Property, having purchased the Property for investment purposes.

14. Upon information and belief, Clayton Morris is engaged in the business of recruiting real estate investors from outside Indiana and providing real estate investment opportunities such as the Property to investors, including Plaintiffs.

15. Upon information and belief, Morris Invest is engaged in the business of recruiting real estate investors from outside Indiana and providing real estate investment opportunities such as the Property to investors, including Plaintiffs.

16. Plaintiffs responded to Defendants' advertisements for the sale of "turn key" investment property in which Defendants promised to perform certain rehab work to render the Property ready for sale or rental at the time of closing or within 90 days of closing.

17. On or about January 30, 2018, Plaintiff, NT Circle City, through its member, Plaintiff Nuan Tinio, executed a purchase agreement ("Agreement"), with Clayton Morris wherein Plaintiffs agreed to purchase, and Clayton Morris agreed to sell, the Property for a purchase price of Forty-Eight Thousand Five Hundred Dollars (\$48,500.00).

18. Plaintiffs proceeded with the purchase of the Property based on the Buyers Protection Group Inspection Report of the Property ("Inspection Report"), which was prepared for Morris Invest and provided to Plaintiffs by Morris Invest.

19. On or about February 14, 2018, Plaintiffs closed on the purchase of the Property paying the sales price of Forty-Eight Thousand Five Hundred Dollars (\$48,500.00) and received the combined closing documents and a warranty deed conveying the Property executed by authorized agent, Karen Schnabel, of the titled owner, Indy Jax.

20. The rehabilitation and repair work to the Property was to be performed or arranged by Morris Invest, Clayton Morris, Blue Sky, Indy Jax, Limited, OPM, LLC, Ocean and/or JP Anderson and completed within 90-days of closing.

21. Plaintiffs received a notice dated May 9, 2018 from the City of Indianapolis citing the Property for violations ("May 9 Notice").

22. Plaintiffs submitted the May 9 Notice to representatives of Morris Invest, who advised that Plaintiffs the Notice was forwarded to Limited, OPM, LLC, Ocean and/or JP Anderson (collectively, "Oceanpointe"), to resolve on Plaintiffs' behalf.

23. Plaintiffs received another violation notice from the City of Indianapolis on or about July 25, 2018 (the July 25 Notice").

24. Plaintiffs likewise submitted the July 25 Notice to representatives of Morris Invest, who advised that Plaintiffs the Notice was forwarded to Oceanpointe to resolve on Plaintiffs' behalf. The May 9 Notice and the July 25 Notice are collectively referred to as the Violation Notices.

25. Plaintiffs made numerous inquiries of Clayton Morris, Morris Invest and Oceanpointe as to the status of the Property and whether a representative of Oceanpointe

would resolve Violation Notices. Plaintiffs was assured a representative of Oceanpointe would do so.

26. On or about July 25, 2018, Plaintiffs contacted the City of Indianapolis inspector who issued the code violation notice and Plaintiffs was informed that the Violation Notices had not been resolved. Plaintiffs paid these violations to avoid additional fines and violations.

27. During the time between the Closing on February 14, 2018, and April 12, 2018, Plaintiffs were advised of various companies tasked with the property management, rehabilitation and repair of the Property, including Morris Invest, Blue Sky, Limited, OPM LLC, Ocean, JP Anderson, and Boardwalk.

28. Twenty Thousand (\$20,000.00) of the Purchase Price was payment by Plaintiffs to Clayton Morris, Morris Invest and/or Indy Jax to rehabilitate and/or repair of the Property to prepare the Property for rental purposes.

29. Further, Clayton Morris, Morris Invest and/or Indy Jax represented to Plaintiffs through their marketing materials and through oral communication that the Purchase Price included rehabilitation and repair of the Property.

30. The rehabilitation services were not provided to the Property.

31. Upon information and belief, Defendants never intended to provide the rehabilitation services.

32. Clayton Morris also made material representations regarding title of the Property, which were untrue.

33. Morris Invest and/or its agents/representatives made material representations regarding title of the Property, which were untrue.

34. Indy Jax and their agents/representatives, including Karen Schnabel, made material representations regarding title of the Property, which were untrue.

35. Plaintiffs reasonably believed that Clayton Morris was the rightful owner of the Property.

36. When the Property was conveyed and transferred to Plaintiffs, a warranty deed and Combined Closing Statement were produced showing the Property was owned by Indy Jax.

37. Plaintiffs were not provided with any assignment of interest or assignment of the Purchase Agreement from Clayton Morris to Indy Jax.

38. Upon information and belief, Clayton Morris intended that Plaintiffs would be deceived by his representations.

39. Morris Invest intended that Plaintiffs would be deceived by its representations.

40. Indy Jax intended that Plaintiffs would be deceived by its representations.

41. Plaintiffs reasonably relied on the representations of Clayton Morris, Morris Invest and/or Indy Jax.

47. Clayton Morris, with knowledge of or in reckless ignorance of the representation's falsity, made such materials representations to Plaintiffs.

48. Morris Invest and/or its agents and representatives, with knowledge of or in reckless ignorance of the representation's falsity, made such materials representations to Plaintiffs.

49. Indy Jax and/or their agents/representatives, including Karen Schnabel, with knowledge of or in reckless ignorance of the representation's falsity, made such materials representations to Plaintiffs.

50. Clayton Morris intended that Plaintiffs be deceived by such representations.

51. Morris Invest and its agents/representatives intended that Plaintiffs be deceived by such representations.

52. Indy Jax and its agents/representatives, including Karen Schnabel, intended that Plaintiffs be deceived by such representations.

53. As a direct result, Plaintiffs suffered harm due to Clayton Morris, Morris Invest, Indy Jax, Karen Schnabel and their agents/representatives' knowing misrepresentations regarding true ownership of the Property.

54. As a direct and proximate cause of such representations, Plaintiffs have incurred damages, including attorney's fees and costs.

**COUNT 1
BREACH OF CONTRACT**

55. Plaintiffs repeat all of the allegations contained in the previous paragraphs as if fully set forth herein.

56. Plaintiffs were/are in contractual privity with Defendants.

57. Plaintiffs performed all of Plaintiffs' obligations under the Agreement.

58. Defendants violated the contract by failing to perform obligations under same and/or misrepresenting those obligations to Plaintiffs and/or by failing to render timely performance under same.

59. The aforesaid breach was material in nature.

60. As a result of the aforesaid breach, Plaintiffs sustained damages.

WHEREFORE, Plaintiffs demand judgment against all Defendants individually and/or jointly and/or severally for:

- Compensatory damages.
- The remedies provided for under any state and/or federal statutes plead herein, including but not limited to statutory treble damages and the equitable remedies provided for under such statutes.
- The relief available to defrauded persons pursuant to N.J.S.A. 2A:32-1, et seq.
- Any other applicable consequential, incidental, nominal and expectation damages.
- To the extent permissible by statutes, New Jersey Court Rules and the common law, lawful interest, court costs, attorney's fees and such other and further relief as the court shall deem equitable and just.

COUNT 2
VIOLATION OF THE COVENANT OF GOOD FAITH AND FAIR DEALING

61. Plaintiffs repeat all of the allegations contained in the previous paragraphs as if fully set forth herein.

62. Plaintiffs was/were in contractual privity with Defendants.

63. Covenants of good faith and fair dealing arise when parties enter into contracts such as those at issue in the instant matter and such covenants in fact arose in the instant matter.

64. At all times relevant hereto, Plaintiffs acted in good faith and yet, Defendants failed to act in good faith when rendering performance under the contracts/addendums binding the parties and/or by failing to render timely and/or valid

and/or effective performance and/or by failing to render full and complete performance under the warranties/guarantees and/or by concealing or misrepresenting the respective parties' obligations and/or duties under same.

65. Defendants' actions as aforesaid are indicative of a lack of good faith and violate the covenants of good faith and fair dealing that arose relative to the transaction and/or any warranties that defendants issued to Plaintiffs.

66. As a result of Defendants' conduct as aforesaid, Plaintiffs suffered damages.

WHEREFORE, Plaintiffs demand judgment against all defendants named to this count individually and/or jointly and/or severally for:

- Compensatory damages.
- The remedies provided for under any state and/or federal statutes plead herein, including but not limited to statutory treble damages and the equitable remedies provided for under such statutes.
- The relief available to defrauded persons pursuant to N.J.S.A. 2A:32-1, et seq.
- Any other applicable consequential, incidental, nominal and expectation damages.
- To the extent permissible by statutes, New Jersey Court Rules and the common law, lawful interest, court costs, attorney's fees and such other and further relief as the court shall deem equitable and just.

**COUNT 3
VIOLATION OF THE NEW JERSEY CONSUMER FRAUD ACT**

67. Plaintiffs repeat all of the allegations contained in the previous paragraphs as if fully set forth herein.

68. Plaintiffs are “persons” as defined by N.J.S.A. 56:8-1(d).

69. Defendants are “persons” as defined by N.J.S.A. 56:8-1(d).

70. The goods and/or services at issue in this case is/are merchandise as defined by N.J.S.A. 56:8-1(c).

71. The sale of the goods and/or services to Plaintiffs by Defendants was a “sale” as defined by N.J.S.A. 56:8-1(e).

72. Accordingly, under the facts alleged in this complaint, Plaintiffs are consumers entitled to the protection and remedies provided for by the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1, et seq.

73. Defendants and/or defendants’ agents and/or brokers and/or independent contractors and/or salespeople and/or employees and/or representatives and/or servants and/or workmen engaged in an unconscionable commercial practice, deception, fraud, false pretense, false promise or misrepresentation against Plaintiffs.

74. Defendants knowingly concealed, suppressed or omitted a material fact from Plaintiffs with intent that Plaintiffs rely upon same.

75. Plaintiffs in fact reasonably relied upon the aforesaid concealment and/or omissions of material fact to Plaintiffs’ detriment.

76. The aforesaid misrepresentations were material to the transaction(s) at issue.

77. As a result of Defendants' aforesaid misconduct, Plaintiffs sustained an ascertainable loss of money or property – a loss capable of being calculated with a reasonable degree of certainty.

78. In light of the aforesaid, Defendants violated N.J.S.A. 56:8-1, et seq.

79. Defendants' conduct may have also constituted violations of applicable provisions of New Jersey Statutes, the New Jersey Administrative Code, the federal statutes pled herein and/or the Code of Federal Regulations and such misconduct may also support Defendants' liability for consumer fraud.

80. As set forth on the certification(s) annexed to this pleading, Plaintiffs complied with the requirements of N.J.S.A. 56:8-20, et seq.

81. Plaintiffs bring this action pursuant to N.J.S.A. 56:8-19 and in accordance therewith, seek equitable relief, statutory treble damages, attorney's fees and court costs.

WHEREFORE, Plaintiffs demand judgment against all Defendants named to this count individually and/or jointly and/or severally for:

- Compensatory damages.
- The remedies provided for under any state and/or federal statutes plead herein, including but not limited to statutory treble damages and the equitable remedies provided for under such statutes.
- The relief available to defrauded persons pursuant to N.J.S.A. 2A:32-1, et seq.
- Any other applicable consequential, incidental, nominal and expectation damages.
- To the extent permissible by statutes, New Jersey Court Rules and the

common law, lawful interest, court costs, attorney's fees and such other and further relief as the court shall deem equitable and just.

COUNT 4
QUANTUM MERUIT AND UNJUST ENRICHMENT

82. Plaintiffs repeat all of the allegations contained in the previous paragraphs as if fully set forth herein.

83. Plaintiffs performed their obligations under the Purchase Agreement and Combined Closing Statements by remitting the Purchase Price of \$48,500.00 to Defendants.

84. The purchase price Plaintiffs paid for the conveyance of the Property in rentable condition and a portion of the purchase price, in the amount of \$20,000.00, was for certain rehabilitation and repair work that Defendants promised to perform.

85. Defendants failed and refused to perform the rehabilitation and repair work as agreed.

86. As a result, Defendants have received and are continuing to be unjustly enriched by their rendition of the purchase price without having delivered rental ready property as required by the Agreement and Combined Closing Statement.

87. Accordingly, the Plaintiffs are entitled to relief from the Defendants under the common law equitable doctrines of quantum meruit and unjust enrichment.

WHEREFORE, Plaintiffs demand judgment against all defendants named to this count individually and/or jointly and/or severally for:

- Compensatory damages.
- To the extent permissible by statutes, New Jersey Court Rules and the common law, lawful interest, court costs, attorney's fees and such other and

further relief as the court shall deem equitable and just.

LAW OFFICES OF CREW SCHIELKE, LLC
Attorney for Plaintiffs

By: _____


CREW SCHIELKE, ESQ.

Dated: May 13, 2019

JURY DEMAND PURSUANT TO R. 4:35-1

Pursuant to R. 4:35-1, relative to all issues raised in the instant action that are so triable,
Plaintiffs hereby demand a trial by six (6) jurors.

DESIGNATION OF TRIAL COUNSEL

Crew Schielke, Esq., is hereby designated as trial counsel for Plaintiffs in the
above-captioned matter.

LAW OFFICES OF CREW SCHIELKE, LLC
Attorney for Plaintiffs

By: _____


CREW SCHIELKE, ESQ.

Dated: May 13, 2019

CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify that the matter in controversy in this action is not the subject of any pending action or arbitration and that no other action or arbitration is presently contemplated. I am not aware of any non-party who should be joined in the action pursuant to *R. 4:28* or who is subject to joinder pursuant to *R. 4:29-1*. I hereby certify the following statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

LAW OFFICES OF CREW SCHIELKE, LLC
Attorney for Plaintiffs

By: _____


CREW SCHIELKE, ESQ.

Dated: May 13, 2019

CERTIFICATION OF SERVICE PURSUANT TO N.J.S.A. 56:8-20

Crew Schielke, Eq. hereby certifies pursuant to N.J.S.A. 56:8-20:

1. I am counsel for Plaintiffs and as such I make this certification from personal knowledge derived from my handling of Plaintiffs' instant case.
2. As required by N.J.S.A. 56:8-20, I hereby certify that on the below referenced date I caused a copy of the complaint to be served upon the following offices via first class United States Mail, postage prepaid: Office of the Attorney General Richard J. Hughes Justice Complex, P.O. Box 80, Trenton, NJ, 08625-0080.
3. I hereby certify that the information contained in this certification is true and correct and that, if such information is willfully false, I understand that I am subject to punishment.

LAW OFFICES OF CREW SCHIELKE, LLC
Attorney for Plaintiffs

By: _____


CREW SCHIELKE, ESQ.

Dated: May 13, 2019